

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

FINAL STATEMENT OF REASONS

AMEND TITLE 13, CALIFORNIA CODE OF REGULATIONS
DIVISION 2, CHAPTER 6.5, ARTICLE 1, SECTION 1200
AND
ADOPT ARTICLE 6.5, SECTIONS 1235.1 THROUGH 1235.6

MOTOR CARRIER SAFETY CARRIER IDENTIFICATION NUMBERS (CHP-R-00-12) (OAL NOTICE FILE NUMBER Z01-0420-02)

EXISTING REGULATIONS AND AMENDMENTS

California Vehicle Code (VC) Section 34501 requires the Department of the California Highway Patrol (CHP) to adopt reasonable rules and regulations which, in the judgment of the Department, are designed to promote the safe operation of vehicles described in 34500 VC. Those regulations are contained in Title 13, California Code of Regulations.

Section 34507.5 VC requires certain persons to obtain a “carrier identification number” from the CHP, and with some exceptions, to display that number on both sides of the vehicles mentioned above. Currently, the CHP has no regulations relating to the assignment of carrier identification numbers, as all matters relating to this subject have been controlled by internal policies of the CHP. Now, however, the CHP believes that recent developments indicate that all persons who are subject to Section 34507.5 should have direct access to a set of specific rules governing the assignment of carrier identification numbers. That access occurs through formal adoption of regulations in Title 13 of the California Code of Regulations.

Background

The CHP promotes the safe operation of the vehicles listed in Section 34500 VC by various means, one of which is by collecting information relating to the safety performance of the motor carriers who operate those vehicles. Since 1986, that information has been stored in an automated record system, which has been used by the CHP primarily as an internal tool to manage its motor carrier inspection workload.

To ensure that information collected is attributed to the correct motor carrier in the records of the CHP, each record is identified with a carrier identification number, commonly called a “CA number,” and it is this CA number that Section 34507.5 requires certain persons to obtain. It is important for the reader to bear in mind that this discussion of CA numbers is not merely about the numbers themselves, but about the creation and maintenance of safety records. The CA numbers are merely the means by which those records are retrieved, analogous to the label

on a common file folder.

For years CA numbers were assigned without specific written rules to prevent the duplication of records that occurs when a motor carrier is inadvertently assigned more than one CA number. Conversely, multiple motor carriers have sometimes shared the same CA number due to a lack of recognition in the CHP's records of their existence as separate legal entities. These errors typically occurred because local facilities of motor carriers were thought to be independent entities, when in fact they were part of a larger organization with other business locations elsewhere. In other cases, two or more closely-related companies, perhaps commonly owned, were mistakenly treated as a single company, when in fact they were purposely created by their owners as separate legal entities.

In 1997, the Motor Carriers of Property Permit Act (the Act) was signed into law, which created a new class of motor carrier, the "motor carrier of property." Among other things, the Act required all motor carriers of property to obtain a CA number from the CHP, and to register it with the Department of Motor Vehicles (DMV), the agency assigned responsibility for issuing the permits created by the Act.

Most *motor carriers of property*, as defined in Section 34601 VC, are also *motor carriers* as defined in Section 408 VC, and were therefore already subject to Section 34507.5 VC. However, due to the separate definitions of those terms, there are some motor carriers of property who are *not* (also) motor carriers, and vice versa; that is, the terms describe two groups that largely overlap one another, but there are many persons who are members of only one of the groups.

This means that there are some persons who are subject to the requirement in Section 34507.5 VC to obtain and display a CA number solely because they are motor carriers of property as defined in Section 34601 VC, even though they are not motor carriers as defined in Section 408 VC. Those persons must obtain a permit from the DMV to operate their vehicles on the highway, but because they are not also *motor carriers*, they are not subject to the motor carrier safety regulations of the CHP. Their safety performance, therefore, is measured solely on matters relating to requirements in the Vehicle Code and other statutes that apply equally to commercial and noncommercial traffic. The Act therefore added a new group of persons, motor carriers of property who operate vehicles other than those listed in Section 34500 VC, to those who were already subject to Section 34507.5 VC, motor carriers.

An applicant for a motor carrier of property permit obtains the permit to operate certain vehicles on the highway by submitting an application and fee to the DMV, providing proof of adequate insurance as part of the process. The permit represents a privilege that can be gained or lost by its holder. Therefore, the CA number assigned by the CHP now has a dual role. First, it is purely an identification number that does not entitle the holder to do anything. Second, it is sometimes a motor carrier of property *permit number*, and that permit does entitle its holder to operate certain vehicles on California highways. In this second role, the CA number represents records that could become exhibits in proceedings to suspend or revoke the motor carrier of property permits of unsafe carriers, or of those that consistently fail to comply with applicable

laws. Therefore, it is now more important than ever that the CHP's policies and procedures regarding the issuance of CA numbers be regularized and publicized, with special emphasis on preventing duplication, sharing, or transferring of CA numbers. The CA number is no longer simply a database key to a motor carrier's safety record. Now it can represent a motor carrier of property's privilege to operate on the highway. The level of data integrity necessary to support the DMV's motor carrier of property permit program is higher than that which has been historically necessary for the CHP's internal use of the record system, so the CHP has been working to achieve the required level of data integrity. This proposal is designed to support that effort.

The DMV is a separate agency from the CHP, and the use of the CA number as the number for motor carrier of property permits by the DMV requires that agency to have electronic access to the CHP's electronic system that generates new CA numbers. When a new CA number is generated, the system simultaneously creates a new, empty safety record representing the new entity to whom the CA number is assigned. The DMV currently has that access, and can use the CHP's system to generate a new CA number when a motor carrier of property, who does not already have a CA number, applies to the DMV for a permit.

Sometimes a motor carrier of property does have a CA number, but the individual completing the DMV application on behalf of the company does not know it. Other times the applicant had a CA number at one time, but since that time has incorporated, or entered into a partnership, or formed a limited liability company, any of which creates a new "person" under the law. The CHP believes that as such, the new person's safety record should be pure, that is, it should not include information that relates to another organization, even a predecessor organization.

Looking to the future, the CHP anticipates further legislative changes that may cause other types of motor carriers, who are not motor carriers of property by current definition, to become subject to a permit program similar to the current one. In that event, it will benefit all concerned if the records of the CHP (by that time) are free of duplication or commingling of legal entities, and each record truly represents one person only. That is the goal of the CHP, and the purpose of this regulatory proposal.

This Regulatory Proposal

Because of the association of the CHP-assigned CA number with the DMV-issued permit, it is now more critical to properly identify each legal entity using the true legal name and other identifying information of each. The existence of the motor carrier of property permit as a document that motor carriers of property must possess to operate legally on California highways, and which can be suspended or revoked for cause, implies that controls must exist to prevent unscrupulous persons from defying the intent of the law by obtaining multiple permits with which to thwart the operation of laws intended to protect the public safety. It also implies that controls must exist to avoid misidentifying bystanders as guilty parties simply because they are in some way related to the specific person who has been found violating the law.

Section 34507.5 VC requires every motor carrier, as defined in Section 408 VC, and every motor carrier of property, as defined in Section 34601 VC, to obtain a CA number from the CHP, and

to do so on a form furnished by the CHP. This proposal identifies the form specifically, and details the manner in which the CHP will issue new CA numbers and update the carrier identification information associated with those numbers in its record system.

Title 13, California Code of Regulations (13 CCR), Division 2, new Article 6.5, Carrier Identification Numbers, proposed in this statement of reasons, would apply to all persons required by the Vehicle Code to obtain a CA number from the CHP.

PURPOSE OF THIS PROPOSED REGULATORY ACTION

The CHP has concluded that additional regulations are necessary to articulate publicly the CHP's policies governing the issuance of CA numbers. The CHP believes that effective enforcement of motor carrier safety regulations contained in 13 CCR, as well as enforcement of statutes governing motor carriers and motor carriers of property, require that all such entities be properly identified by their true legal names and other positive identifying information.

Correct identification of both types of entities is necessary to prevent inadvertent attribution of traffic citations, regulatory inspection results, traffic collisions, hazardous materials spills, or other information to the wrong motor carrier or motor carrier of property when summary information regarding those matters is entered into the automated system of the CHP. Correct identification is also necessary when either the CHP or the DMV intends to bring action against the motor carrier of property permit of a particular motor carrier of property, especially when there are two or more legally-separate entities that are so closely related by common management that the public, and sometimes the owners, look upon those entities as one large enterprise.

Additionally, printouts or electronic medium versions of the CHP's automated records associated with the CA numbers of specific motor carriers or motor carriers of property are public information, and copies of the records are often requested by third parties such as insurance companies, industry associations, other government agencies, and the carriers themselves. Specific records are also occasionally subpoenaed for use as an exhibit in legal proceedings to which the CHP may or may not be a party. The CHP believes that while it is obviously important to avoid attributing negative information to innocent persons, it is equally important to avoid attributing positive information to anyone other than the person who earned it. To that end, accurate attribution begins with accurate identification.

This proposal is intended to ensure that all information collected by the CHP relating to the identification of motor carriers and motor carriers of property is reasonably accurate and current, so that other information the CHP collects regarding the safety experiences of those entities is associated with the correct carrier safety record every time. The central concept of this regulatory proposal is that a motor carrier shall be defined as "one person," using the term "person" in its legal sense to include individuals (sole proprietorships), partnerships, corporations, or limited liability companies (LLC). Other types of persons may be added in the future, after the CHP has completed a current technology project to move its records from an outdated electronic system to a more current type of system that permits programming changes

to be accomplished more efficiently.

SECTION BY SECTION OVERVIEW

The CHP amended regulations in 13 CCR, Chapter 6.5 “Motor Carrier Safety” and adopted new Article 6.5, Carrier Identification Numbers; new Section 1235.1, Application for Carrier Identification Number; new Section 1235.2, Motor Carrier Safety Records of the Department; new Section 1235.3, Required Information and Assignment of Identification Numbers; new Section 1235.4, Identification Numbers Nontransferable; new Section 1235.5, Retention of Records by the Department, and new Section 1235.6, Reconciliation of Records.

Article 6.5, Carrier Identification Numbers

13 CCR 1235.1, Application For Carrier Identification Number.

Section 1235.1 is added to identify the “forms furnished by the department” referenced in Section 34507.5 (a) VC, and to make specific the manner in which CA numbers are assigned to “persons,” as that term is generally used in law.

Subsection (a) is added to state the statutory source of the requirement for certain persons to apply for a CA number, and to specify that CA numbers are issued to “persons,” as defined in the Vehicle Code.

Subsection (b) is added to define the term “person” as used in the article.

Subsection (c) is added to assign a simplified name for the carrier identification number, namely, “CA number,” to identify the source of the CA numbers, and to declare that the CHP will not issue specific numbers on demand. Also addressed in this subsection, is the automated system which assigns CA numbers by adding one to the most recently assigned number. Attempts to assign numbers out of sequence would require manual intervention in the operation of a very complex computer database, obviating any efficiency gained in using automation and greatly increasing administrative costs to the CHP. Once assigned, CA numbers are never reassigned to new owners, and no two persons listed in the automated system have the same CA number.

Subsection (d) is added to specify that CA numbers are issued without charge to the applicant.

Subsection (e) is added to make specific the “forms furnished by the department,” referenced in 34507.5 (a) VC. There is one form, the *Motor Carrier Profile*, CHP 362, which is used to apply for a new CA number or to provide updated information relating to an existing CA number, as also required by 34507.5 (a) VC. The subsection identifies the locations where single copies (not bulk supplies) of the specified form may be obtained without charge, including a location on the Internet from which it can be printed.

Subsection (f) is added to specify that applications must be legible, complete and delivered to

the CHP by mail or other acceptable means specified on the application.

13 CCR 1235.2, Motor Carrier Safety Records of the Department.

Section 1235.2 is added to describe the contents of the records maintained by the CHP.

Subsection (a) is added to specify that the record system contains “carrier records,” which include general information about the carrier that is not associated specifically with a terminal of the carrier, and “terminal records,” which include information about a single business location, referred to as a “terminal,” that is applicable only to that location. It also states that the information contained in the records of the CHP is public.

Subsection (b) is added to specify that carrier records contain information relating to the carrier’s legal name and business name(s), physical and mailing addresses, main telephone number, two individuals who can be contacted day or night in the event of an emergency, codes indicating the carrier’s geographical location, the carrier’s type of entity, other identification numbers held by the carrier, identification of the state agency that created the record (DMV or CHP), the types of transportation activities in which the carrier engages or types of vehicles operated, the number of active and inactive terminals associated with the carrier, the status of the carrier record as active or inactive and date of status, the date of the most recent update of the carrier record, a listing of transportation-related licenses, operating authority, and registration numbers assigned to the carrier by the CHP or other agencies, the sum of all vehicle counts and driver counts reported by the carrier for each of its terminals, fleet mileage by year as reported by the carrier, business names the carrier uses, a listing of the carrier’s terminals that are subject to Section 34501.12 VC if applicable, a listing of citations written to the carrier by the CHP for violations relating to operation of commercial vehicles, a listing of accident reports taken by the CHP, and a listing of locations which the carrier operates terminals.

Subsection (c) is added to specify that terminal records may contain such information as the name the carrier uses at that location, the address of the location, the terminal office telephone number, the names of two individuals who can be contacted day or night in the event of an emergency involving vehicles or drivers believed to be from that terminal, codes representing the geographical location of the terminal, the types of transportation activities in which the carrier engages or types of vehicles operated from that terminal, the current safety compliance rating assigned by the CHP to that terminal and the date of the rating assignment, the date the most recent information was entered into the terminal record, a listing of any transportation-related licenses and registrations the carrier may hold specific to that terminal, a history of fees paid and inspections conducted pursuant to Section 34501.12 VC, a count of vehicles operated from the terminal with codes indicating the types of vehicles and a legend explaining the codes, a

count of drivers based at the terminal, fleet mileage of vehicles operated from the terminal, and a history of past safety compliance rating summaries.

13 CCR 1235.3, Required Information and Assignment of Identification Numbers.

Section 1235.3 subsection (a) is added to specify that business names, commonly called “doing business as” (DBA) names, may be associated with the CA number and legal name of the carrier.

Subsection (b) is added to declare that DBA names are not separate persons entitled to separate CA numbers, and to specify that DBA names listed must be properly adopted business names as detailed in the Business and Professions Code, commencing with Section 17900, unless excepted elsewhere in the section. It also specifies that the name of another carrier to whom a person may be contracted or under whose federal for-hire operating authority the person may be operating is not an acceptable DBA name, as it actually represents another person. The subsection also advises persons that the CHP may require an applicant for a CA number to provide verification that a DBA name has been adopted according to law.

Subsection (c) is added to specify that the proper legal name of the individual, partnership, corporation, or limited liability company is required. The subdivision adds detail specifying that enterprises operated as sole proprietorships shall identify the one individual who is the sole proprietor of record, even when actual management of a family business is shared by two or more family members or others associated with the sole proprietor, and that such enterprises will be assigned one CA number. Such enterprises will not be recognized as partnerships unless they are legally organized as such, in which case they are to be identified as partnerships on the application rather than as individuals.

The subsection also specifies identical treatment for all types of artificial persons, such as partnerships, corporations, and limited liability companies. Public agencies that are subject to these requirements are treated as corporations for purposes of the CHP’s automated record system, which is stated on the *Motor Carrier Profile* form adopted by reference in subsection (e) of proposed Section 1235.1. The subsection also specifies the manner in which public agencies may identify one subordinate level or their organizations, called “departments” in the section, as DBAs of the legal entity to which a CA number is assigned.

Subsection (d) is added to specify how certain government agencies which are governed separately from county and city governments will be considered separate legal entities for purposes of the CHP’s automated record system, and shall therefore be issued a CA number in the respective legal names of the agencies.

Subsection (e) is added to specify that public school districts will be treated as separate legal entities from the counties or cities with which they are associated.

Subsection (f) is added to specify how associations and other organizations associated with a central organization, but not necessarily directly with one another, will be considered one organization with provision for local units to be identified as DBAs of the main organization.

Subsection (g) is added to address the manner in which reorganizations of legal entities will be treated in the automated record system of the CHP. In many cases, a “reorganization” is actually the creation of a new legal entity separate from the one from which it was created. In some of those cases, the original legal entity continues to exist and the “offspring” entity constitutes a new person under the law, having separate legal rights and responsibilities, no matter how closely related to the parent organization, and irrespective of the fact that the same individuals may manage both the parent and the offspring organizations.

Subsection (h) is added to clarify that an individual exists only once and therefore may be issued only one CA number regardless of the number of businesses, related or not, operated by that individual. However, this subsection also recognizes that an individual may enter into a formally-established partnership with other individuals, and that the partnership itself (not the individuals that comprise it) shall be issued a CA number in the legal name of the partnership without affecting the CA number ownership of any individuals who are members of the partnership but continue to operate separate enterprises as individuals or sole proprietorships. Likewise, individuals may participate in the formation of corporations or limited liability companies, each of which is entitled to a CA number issued in its legal name, without jeopardizing their own possession of CA numbers that identify their individual enterprises that are subject to 34507.5 VC.

13 CCR 1235.4, CA Numbers Nontransferable.

Section 1235.4 subsection (a) is added to clearly establish that each person may possess only one CA number regardless of how many business names it may use or how many internal divisions it may have. This provision supports the earlier concept that a CA number is assigned in the legal name of the person, of which there is only one, not in any DBA name, of which there can be many.

Subsection (b) is added to specify that CA numbers are not transferable from one person to another except to correct any errors made by the CHP in the issuance of CA numbers or the editing of the records associated with those numbers. CA numbers are not transferable from one legal entity to another because doing so would cause safety records to be transferred as well, and would cause a mismatch between the electronic records and any existing paper records associated with CA numbers, not only within the CHP’s files located statewide, but in many cases, also in the files of the DMV or the Public Utilities Commission (PUC), both of which cross-reference CA numbers to equivalent numbers and associated records in their own systems. In addition, transferring an existing CA number to a new legal entity, even if the new entity is the successor to the original holder of the CA number, causes the identity of the original holder to be lost, and simultaneously creates a lengthy safety record for the new entity that predates the existence of the new entity.

For example, if an existing corporation is dissolved and its owners form a new corporation, the

new corporation should not be associated with the history of the old corporation by being given the CA number of the old corporation, as that history may go back years, to the inception of the CHP's record system. To give the new corporation the CA number of the old corporation would in effect delete the record of the old corporation, while creating a false history in the name of the new corporation.

The subsection also specifies that the CHP may refuse to issue a new CA number to any carrier organization that is managed in whole or in part by an individual who also manages any part of another carrier that is the subject of legal action by the CHP, the DMV, or the PUC, when the CHP believes the new organization is being organized to circumvent the legal action in question.

Subsection (c) is added to specify that a change in the legal name of a person will be accepted and recorded upon submission of satisfactory evidence that the change is a true name change, and not the formation of a new corporation or other legal entity.

Subsection (d) is added to specify the manner in which the CHP purges its electronic files of old records no longer needed because the entities they represent have gone out of business, no longer operate in California, or have ceased to be subject to Section 34507.5 VC. The CHP's automated system currently identifies entities that have received no activity on their records for three years, and automatically places those records in inactive status. If any of the aforementioned activities are posted to a record when it is in inactive status, the record is automatically restored to active status, and is "date-stamped" to indicate when the reactivation occurred, so that a new three-year period can be measured. Otherwise, if a CA number record remains in inactive status for three years without being reactivated, either automatically as indicated above, or manually by CHP personnel who have learned the entity is still active, then the next stage of the CHP's file maintenance program is to identify all records that have been inactive for three or more years.

Since it is possible for a person who is subject to 34507.5 VC to operate for three years without receiving any citations, being involved in a reportable accident, spilling hazardous materials on the highway, or receiving a regulatory inspection (not all persons who are subject to 34507.5 VC are subject to regulatory inspections by the CHP), and then operate an *additional* three years while that person's record was inactive in the CHP's system, the CHP examines the report manually to determine whether any persons listed are actually still active. In many cases they are still active, but have moved to another part of the state without advising the CHP of the change of address as required by Title 13, California Code of Regulations, Section 1233.5.

In such cases, it occasionally happens that a person's record will be deleted automatically from the CHP's system after six or more years of apparent inactivity. When the record is deleted, so is the CA number, since the CA number is the basic identifier of that record. This can cause some difficulty if that person has a Motor Carrier of Property Permit issued by the DMV, as those permits use the permit holder's CA number as the number of the permit, and the DMV inquires into the CHP's system to verify CA numbers and other carrier identification information when issuing new or renewal permits. For this reason and others, the CHP sends an annual report to each of its field Division offices so local personnel can determine which of the persons

listed on the report should not be deleted from the record system since the owner is actually still active.

The reason the CHP does not immediately delete records from its automated system when an entity is identified as inactive is that, since the system's inception in 1986, the CHP has found that small firms, especially trucking firms, frequently go out of business, only to return a year or two later to request their old CA number. However, once a CA number and its related record have been deleted from the CHP's system, they can only be restored if there is a paper copy of the record from which to transcribe the information the record formerly held.

The CHP does not have the resources to archive many thousands of deleted records to protect against the possibility that their owners may eventually wish to resume operations. Neither does the CHP have the personnel necessary to painstakingly recreate many deleted records by working from assorted paper records to assemble enough information to restore original CA numbers. Therefore, the CHP uses the two-tiered approach in which a carrier record is retained in active status for at least three years, then if no reactivating activity was posted to the record during those three years, the record is moved to inactive status for three more years, then finally deleted if the CHP's field personnel determine that the person no longer exists, or has moved out of state, or exists but is no longer subject to 34507.5 VC.

Subsection (e) is added to detail how mergers and acquisitions will be handled, as when two firms who each already have CA numbers merge into a single firm. Such mergers may result in one of the firms continuing to exist as the same person it was before the merger, while the other organization is absorbed into the first one, or both original organizations may be dissolved and be succeeded by a new entity consisting of the combined assets of the former companies. Other transactions may occur between members of a family (usually being transactions between individuals). The subsection also requires the surviving or resulting entity to identify to the CHP the former entity that was absorbed and no longer legally exists separately, or does still exist but is no longer subject to 34507.5 VC, so that the CHP can update its records of the absorbed or retired entity to indicate that it is no longer active. This manual marking of a record as "inactive" allows the CHP to clear its files of obsolete records sooner than would be the case if the function is left to the system's self-purging process.

Subsection (f) is added to detail how the CHP will handle the records of entities that are divided into two or more new entities, as when a corporation "spins off" an internal division to become a separate corporation in its own right. In some cases, the original entity will continue to exist and additional legal entities are created. In other cases, the original entity is dissolved, and its assets are reincarnated in one or more new corporations or other types of firms, or in some cases individual former owners of the original entity go into business on their own, creating new sole proprietorships. This subsection describes how those circumstances will be handled by the CHP with respect to the retention of existing CA numbers or the assignment of new ones.

13 CCR 1235.5, Retention of Records by the Department.

Section 1235.5 subsection (a) is added to indicate the circumstances under which the CHP will physically delete CA numbers and their associated records from the CHP's automated system. Three reasons are identified: a record was created in error for a person who does not need one; a second CA number was issued to a person who already has one; or a record is no longer needed because it represents an entity that no longer exists or is no longer subject to Section 34507.5 VC. Provision is made to allow the CHP to retain a record that would ordinarily be deleted, if the person is subject to follow-up inspection by the CHP, or that record may be needed for a pending legal action by the CHP or the DMV.

13 CCR 1235.6, Reconciliation of Records.

Section 1235.6 subsection (a) is added to describe the CHP's ongoing program to ensure all existing records in its automated record system are brought into compliance with the requirements of the proposed Article.

Subsection (b) indicates the CHP's intent to use the most expeditious means at its disposal to bring the records of any person or persons into compliance with the new Article, and to allow reasonable time for carriers whose records are found not to comply with the Article to supply sufficient information to permit correction of records or establish new ones. It also indicates that the CHP will allow adequate time for remarking of vehicles when the facts indicate that vehicles should be displaying a different CA number than the one currently displayed. It further states that the CHP will issue a letter to carriers who are in the process of establishing compliance, indicating that the CHP and the carrier have agreed upon a specific date by which full compliance can be expected.

Subsection (c) states that the CHP will not take an aggressive approach to enforcement of the matters discussed in the section unless the CHP determines that a person who is found out of compliance with the Article is uncooperative in working with the CHP to correct any violations.

With respect to this regulatory action, the intent of the CHP in establishing clear distinctions between one legal person and another is to ensure that information relating to traffic citations, traffic accidents, regulatory inspection ratings, and hazardous materials spills, as well as information about certain types of licenses or registrations held, are correctly attributed to the intended person. Traffic citations, accidents, etc., must be correctly attributed because it is public information, and the CHP recognizes its obligation to avoid attributing negative information to persons who are not responsible for it, or positive information to persons who did not earn it.

It is also the intent of the CHP to ensure that if it ever has occasion to take legal action against a person who is subject to safety regulation by the CHP pursuant to Division 14.8 of the Vehicle Code, or subject to the Motor Carriers of Property Permit Act pursuant to Division 14.85 of that code, the CHP will accurately and precisely identify the true person who should be the subject of the legal action, and will not inadvertently include a related but legally separate entity in an accusation, nor overlook a separate person who should be identified as a responsible party.

WRITTEN COMMENT PERIOD

The California Highway Patrol received one written response to the May 11, 2001, Notice of Proposed Regulatory Action. The comment related to the deregulation of the motor carrier industry and its detrimental effects to safety of operation. No modifications have been made to these regulations. A summary of the written comment follows.

Letter from Joseph P. Thompson **Attorney at Law**

Issue: Mr. Thompson stated his belief that when safety regulations are adopted for carrier identification numbers, the definition of the terms “person” and “entity” should be changed to better identify the “responsible party” or “controlling persons.” The modified definitions would then include the motor carrier or motor carrier of property and the shipper, consignor, consignee, or broker within the scope of the safety regulations.

Response: This proposal simply places in regulation procedures for issuance of carrier identification numbers pursuant to 34507.5 VC. These regulations do not adopt safety regulations relating to driver or vehicle safety nor do they allow a motor carrier, motor carrier of property, or its related parties to evade responsibility for safe operation of motor vehicles in their control.

The terms “person” and “entity” are intentionally used to identify an individual or company in the same manner as generally used in law. Additionally, the CHP does not have regulatory oversight of the consignee, consignor, or broker, and does not intend on using language so broad as to include those groups.

PUBLIC HEARINGS

No public hearings were requested during the open comment period, therefore none were held.

STUDIES/RELATED FACTS

None.

LOCAL MANDATE

These regulations do not impose any new mandate on local agencies or school districts.

IMPACT ON SMALL BUSINESS

The CHP has not identified any significant impact on small business.

ALTERNATIVES

The CHP has not identified any alternative, including the no action alternative that would be more effective and less burdensome for the purpose for which this action is proposed. Additionally, the CHP has not identified any alternative, which would be as effective, and less burdensome to affected persons other than the action being proposed.

Alternative Identified and Reviewed

1. Make no changes to the existing regulations. This alternative would leave that portion of the public which is subject to the requirement in Section 34507.5 VC to obtain a carrier identification number, which includes many businesses based in other states, with no readily-accessible official information on how to obtain the required identification number, nor information explaining how such numbers are assigned by the CHP.

ECONOMIC IMPACT

The CHP has determined that this new regulation will result in:

- No significant compliance costs for persons or businesses directly affected.
- No discernible adverse impact on the level and distribution of costs and prices for large and small business.
- No impact on the level of employment in the state.